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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,211	02/07/2002	Toshihisa Kuroiwa	111891	6437

25944 7590 10/06/2005

OLIFF & BERRIDGE, PLC  
P.O. BOX 19928  
ALEXANDRIA, VA 22320

EXAMINER
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DO, ANH HONG

ART UNIT	PAPER NUMBER
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2627

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/067,211

Applicant(s)

KUROIWA, TOSHIHISA

Examiner

ANH H. DO

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/10/2002.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 11-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Independent claims 11,13, 15, 17, and 19 are drawn to functional descriptive material not claimed as residing on a computer readable medium. MPEP 2106.IV.B.1(a) (Functional Descriptive Material) states:

“Data structures not claimed as embodied in a computer-readable medium are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer.”

“Such claimed data structures do not define any structural or functional interrelationship between the data structure and other claimed aspects of the invention which permits the data structure’s functionality to be realized.”

Claims 11,13, 15, 17, and 19, while defining a medium, do not define a “computer-readable medium” and are thus non-statutory for that reason. A medium can range from paper on which the program is written, to a program simply contemplated and memorized by a person. The examiner suggests amending to embody the program on “computer readable medium” in order to make the claims statutory.

Claims 12, 14, 16, 18, and 20 depend upon claims 11,13, 15, 17, and 19, respectively, therefore they are also rejected for the same reason.

***Allowable Subject Matter***

3. Claims 1-10 are allowed.

4. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 1, the prior art, taken either singly or in combination, does not teach:

- a coding section for dividing... other than the selection region; and an image evaluation section... a large ROI data amount.

Regarding claim 2, since this claim depends upon claim 1, it is also allowable for the same reason.

Regarding claim 3, the prior art, taken either singly or in combination, does not teach:

- an image evaluation section... a large interim data amount.

Regarding claim 4, since this claim depends upon claim 3, it is also allowable for the same reason.

Regarding claim 5, the prior art, taken either singly or in combination, does not teach:

- an image evaluation section... beginning of the bit stream.

Regarding claim 6, since this claim depends upon claim 5, it is also allowable or the same reason.

Regarding claim 7, the prior art, taken either singly or in combination, does not teach:

- an image evaluation section... having a high signal level.

Regarding claim 8, since this claim depends upon claim 7, it is also allowable or the same reason.

Regarding claim 9, the prior art, taken either singly or in combination, does not teach:

- an image evaluation section... a large tile data amount.

Regarding claim 10, since this claim depends upon claim 9, it is also allowable or the same reason.

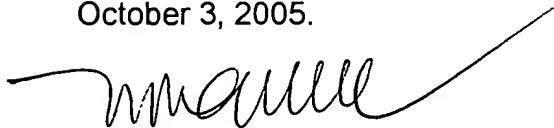
### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANH H. DO whose telephone number is 571-272-7433. The examiner can normally be reached on 5/4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DAVID K. MOORE can be reached on 571-272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

October 3, 2005.

A handwritten signature in black ink, appearing to read 'anhongdo', with a long, sweeping horizontal line extending to the right.

**ANH HONG DO**  
**PRIMARY EXAMINER**